

AMENDED IN SENATE MAY 12, 2004

**SENATE BILL**

**No. 1349**

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**Introduced by Senator Ortiz**

February 18, 2004

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~~An act to add Section 1375 to the Health and Safety Code, and to add Chapter 7.5 (commencing with Section 10610) to Part 2 of Division 2 of, the Insurance Code, relating to health care coverage. An act to add Section 127672 to the Health and Safety Code, relating to health care.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Ortiz. Health care coverage: *quality improvement and cost containment.*

*Existing law provides for the licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the licensing and regulation of health insurers by the Department of Insurance. Existing law requires the Governor to convene the California Health Care Quality Improvement and Cost Containment Commission, with 27 members appointed by the Governor and Legislature, which is to report to the Governor and Legislature by January 1, 2005, on its recommendations for health care quality improvement and cost containment.*

*This bill would require the Department of Managed Health Care and the Department of Insurance to impose a fee on each health care service plan and health insurer, respectively, that is sufficient, in the aggregate, to defray the costs reasonably necessary to fund the California Health Care Quality Improvement and Cost Containment Commission, as determined by the Department of Finance.*

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by~~

~~the Department of Managed Health Care. Existing law creates the Financial Solvency Standards Board within the Department of Managed Health Care for the purpose of, among other things, advising the Director of the Department of Managed Health Care on matters of financial solvency affecting the delivery of health care services and developing and recommending to the director financial solvency requirements and standards relating to plan operations, plan affiliate operations and transactions, plan-provider contractual relationships, and provider affiliate operations and transactions. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits certain insurance rates from being approved or remaining in effect that are excessive, inadequate, or unfairly discriminatory.~~

~~This bill would, as of January 1, 2006, require the Department of Insurance to assume responsibility of ensuring the fiscal soundness and solvency of health care service plans and specialized health care service plans. The bill would, as of January 1, 2005, require the Department of Managed Health Care to work with the Department of Insurance to transfer any functions necessary for the Department of Insurance to assume the responsibility of ensuring the fiscal soundness and solvency of health care service plans and specialized health care service plans. The bill would require health care service plan and specialized health care service plan rates to be approved by the Insurance Commissioner and would prohibit the rates from being approved or remaining in effect if they are excessive, inadequate, or unfairly discriminatory.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.~~ ~~Section 1375 is added to the Health and Safety~~  
2     ~~SECTION 1.~~ *Section 127672 is added to the Health and Safety*  
3     ~~Code, to read:~~  
4     ~~127672. For purposes of funding the California Health Care~~  
5     ~~Quality Improvement and Cost Containment Commission, the~~  
6     ~~Department of Managed Health Care shall impose a fee on each~~  
7     ~~health care service plan, as defined in subdivision (f) of Section~~  
8     ~~1345 and the Department of Insurance shall impose a fee on each~~  
9     ~~health insurer, as defined in subdivision (b) of Section 106 of the~~  
10    ~~Insurance Code. The fee shall be imposed on a per enrollee basis,~~

1 *and shall be sufficient, in the aggregate, to defray the costs*  
2 *reasonably necessary to fund the commission, as determined by the*  
3 *Department of Finance.*

4 ~~Code, to read:~~

5 ~~1375. (a) Notwithstanding any other provision of law,~~  
6 ~~effective January 1, 2006, the Department of Insurance shall~~  
7 ~~assume responsibility for ensuring the fiscal soundness and~~  
8 ~~solvency of health care service plans and specialized health care~~  
9 ~~service plans.~~

10 ~~(b) Effective January 1, 2005 the department shall work with~~  
11 ~~the Department of Insurance to effectuate the transfer of these~~  
12 ~~functions in order to ensure that the Department of Insurance is~~  
13 ~~able to assume responsibility for ensuring the fiscal soundness and~~  
14 ~~solvency of these plans by January 1, 2006.~~

15 ~~SEC. 2. Chapter 7.5 (commencing with Section 10610) is~~  
16 ~~added to Part 2 of Division 2 of the Insurance Code, to read:~~

17  
18 Chapter 7.5. Health Care Service Plans  
19

20 ~~10610. (a) Notwithstanding any other provision of law,~~  
21 ~~effective January 1, 2006, the department shall assume~~  
22 ~~responsibility for ensuring the fiscal soundness and solvency of~~  
23 ~~health care service plans and specialized health care service plans~~  
24 ~~set forth in Section 1345 of the Health and Safety Code.~~

25 ~~(b) Effective January 1, 2005, the Department of Managed~~  
26 ~~Health Care shall work with the department to effectuate the~~  
27 ~~transfer of these functions in order to ensure that the department~~  
28 ~~is able to assume responsibility for ensuring the fiscal soundness~~  
29 ~~and solvency of these plans by January 1, 2006.~~

30 ~~10611. (a) No health care service plan or specialized health~~  
31 ~~care service plan rate shall be approved or remain in effect which~~  
32 ~~is excessive, inadequate, or unfairly discriminatory. In considering~~  
33 ~~whether a rate is excessive, inadequate, or unfairly discriminatory,~~  
34 ~~no consideration shall be given to the degree of competition and~~  
35 ~~the commissioner shall consider whether the rate mathematically~~  
36 ~~reflects the health care service plan's or specialized health care~~  
37 ~~service plan's investment income.~~

38 ~~(b) Every health care service plan or specialized health care~~  
39 ~~service plan that desires to change any rate shall file a complete~~  
40 ~~rate application with the commissioner. A complete rate~~

1 application shall include the type of data referred to in Sections  
2 1857.7, 1857.9, 1857.15, and 1864 and any other information as  
3 the commissioner may require. The applicant shall have the  
4 burden of proving that the requested rate change is justified.

5 (e) The commissioner shall notify the public of any application  
6 by a health care service plan or specialized health care service plan  
7 for a rate change. The application shall be deemed approved 60  
8 days after public notice unless (1) a consumer or his or her  
9 representative requests a hearing within 45 days of public notice  
10 and the commissioner grants the hearing, or determines not to  
11 grant the hearing and issues written findings in support of that  
12 decision, or (2) the commissioner on his or her own motion  
13 determines to hold a hearing, or (3) the proposed rate adjustment  
14 exceeds 7 percent of the then applicable rate for personal lines or  
15 15 percent for commercial lines, in which case the commissioner  
16 must hold a hearing upon a timely request. In any event, a rate  
17 change application shall be deemed approved 180 days after the  
18 rate application is received by the commissioner (A) unless that  
19 application has been disapproved by a final order of the  
20 commissioner subsequent to a hearing, or (B) extraordinary  
21 circumstances exist. For purposes of this section, “received”  
22 means the date delivered to the department.

23 (d) For purposes of this section, extraordinary circumstances  
24 include the following:

25 (1) Rate change application hearings commenced during the  
26 180-day period provided by subdivision (e). If a hearing is  
27 commenced during the 180-day period, the rate change  
28 application shall be deemed approved upon expiration of the  
29 180-day period or 60 days after the close of the record of the  
30 hearing, whichever is later, unless disapproved prior to that date.

31 (2) Rate change applications that are not approved or  
32 disapproved within the 180-day period provided by subdivision  
33 (e) as a result of a judicial proceeding directly involving the  
34 application and initiated by the applicant or an intervenor. During  
35 the pendency of the judicial proceedings, the 180-day period is  
36 tolled, except that in no event shall the commissioner have less  
37 than 30 days after conclusion of the judicial proceedings to  
38 approve or disapprove the application. Notwithstanding any other  
39 provision of law, nothing shall preclude the commissioner from  
40 disapproving an application without a hearing if a stay is in effect

1 ~~barring the commissioner from holding a hearing within the~~  
2 ~~180-day period.~~

3 ~~(3) The hearing has been continued pursuant to Section 11524~~  
4 ~~of the Government Code. The 180-day period provided by~~  
5 ~~subdivision (e) shall be tolled during any period in which a hearing~~  
6 ~~is continued pursuant to Section 11524 of the Government Code.~~  
7 ~~A continuance pursuant to Section 11524 of the Government Code~~  
8 ~~shall be decided on a case-by-case basis. If the hearing is~~  
9 ~~commenced or continued during the 180-day period, the rate~~  
10 ~~change application shall be deemed approved upon the expiration~~  
11 ~~of the 180-day period or 100 days after the case is submitted,~~  
12 ~~whichever is later, unless disapproved prior to that date.~~

